

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL MIROYAN,  
Plaintiff,  
v.  
TAE KAI, et al.,  
Defendants.

Case No. [3:19-cv-03626-WHO](#)

**ORDER DISMISSING CASE**

Re: Dkt. No. 27

On September 11, 2019, I dismissed pro se plaintiff Michael Miroyan's complaint for lack of federal subject matter jurisdiction.<sup>1</sup> Dkt. No. 22. Miroyan pleaded federal claims against Judge Robert D.S. Kim of the Third Circuit in Hawaii, but there was no evidence in the docket that Judge Kim had been served, Miroyan had alleged no facts to support the claims, and the claims seemed to be barred. The remaining claims were based in state law, and in the clear absence of diversity jurisdiction,<sup>2</sup> I lacked jurisdiction over them. In that Order, I gave Miroyan until October 2, 2019 to file a first amended complaint. On October 1, Miroyan requested additional time to amend; I granted his request in part and gave him until October 16 to file an amended complaint.<sup>3</sup> See Dkt. Nos. 23, 24.

On October 15, 2019, Miroyan filed several documents. See Dkt. Nos. 27, 28, 29. One is titled, "Motion to extend time due to change of circumstances for an additional 14 days to have

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<sup>1</sup> Miroyan failed to appear at the hearing that day.

<sup>2</sup> The complaint pleads that both Miroyan and some defendants live in California. See Dkt. No. 1 at 2, 8.

<sup>3</sup> He also appeared, unscheduled, at my Case Management Conference calendar that day; I advised him that I had granted him a two-week extension along with permission to file electronically. Dkt. No. 26.

1 Plaintiff file the first amended complaint, w/ the order attached.” Dkt. No. 27. Miroyan wrote that  
2 he needed more time to draft the complaint detailing a complicated dispute that has been going on  
3 for years. He complained that Judge Kim should have stepped down from the Hawaii case and  
4 that he signed a secret order without informing Miroyan. According to Miroyan, “outrageous  
5 crimes” have been committed against him in state court in Hawaii, and “this Court or the Ninth  
6 Circuit must delay [Judge Kim] because the guy has to withstand scrutiny and he cannot.” *Id.* at 3.  
7 Miroyan also attached a foreclosure judgment in Hawaii case along with an email he sent to an  
8 address associated with the Hawaii state courts.<sup>4</sup> Dkt. No. 28.

9 I will dismiss Miroyan’s case with prejudice for four reasons. First, I already denied the  
10 request that Miroyan made in his most recent filings; in his earlier request, he also asked for a  
11 November 1 deadline to file an amended complaint, and I ordered that he do so by October 16.  
12 Despite his contention that there was a “change of circumstances,” Miroyan has presented no  
13 reasons why I should reconsider that decision.

14 Second, I am not persuaded by Miroyan’s assertion that he needs more time to lay out the  
15 complicated facts of his case. Miroyan is the plaintiff. Even in his original complaint, filed on  
16 June 21, 2019, he wrote, “The litany of allegations against Robert Kim, whom Miroyan is suing in  
17 his individual as well as official capacity, cannot all be delineated here but will be in the first  
18 amended complaint.” Dkt. No. 1 at 10. Accordingly, Miroyan has been aware from the beginning  
19 that his claims against Judge Kim would require more factual support, and he has had more than  
20 four months to develop a complaint that properly lays out those allegations.

21 Third, as of the date of this Order—later than that of his requested extension—Miroyan has  
22 not filed an amended complaint.

23 Finally, and most importantly, Miroyan’s filings—most notably the judgment from the  
24 Hawaii case—make it abundantly clear that he is seeking federal court intervention into decisions  
25 made by a state court judge in a state court case. *See* Dkt. No. 27 at 3 (“This Court or the Ninth  
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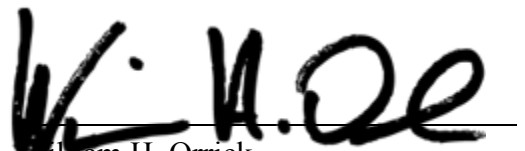
27 <sup>4</sup> Miroyan also included a notice to the Clerk where he writes that he has “dropped” his urgent  
28 request for two more weeks to file an amended complaint. Dkt. No. 29. Based on the other  
filings, Miroyan meant that he dropped *off* the documents at the Clerk’s Office.

1 Circuit must delay [Judge Kim] because the guy has to withstand scrutiny and he cannot.”). The  
2 *Rooker-Feldman* doctrine bars such actions. *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th  
3 Cir. 2004) (noting that the *Rooker-Feldman* doctrine bars federal district courts “from exercising  
4 subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment”);  
5 *Henrichs v. Valley View Dev.*, 474 F.3d 609, 616 (9th Cir. 2007) (holding that *Rooker-Feldman*  
6 barred a claim that “would require the district court to determine that the state court’s decision was  
7 wrong and thus void”). In addition, in none of his filings does Miroyan allege any facts showing  
8 that Judge Kim either took nonjudicial actions or took judicial actions “in the complete absence of  
9 all jurisdiction” in order to overcome the judicial immunity bar. *See Mireles v. Waco*, 502 U.S. 9,  
10 11-12 (1991).

11 By failing to amend his complaint in the nearly two months since my Order, Miroyan has  
12 failed to prosecute his case as required by Federal Rule of Civil Procedure 41(b). His filings,  
13 which fail to provide a basis for federal jurisdiction, instead show that his claims against Judge  
14 Kim are barred. For all of these reasons, this case is DISMISSED WITH PREJUDICE.

15 **IT IS SO ORDERED.**

16 Dated: November 5, 2019

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19 William H. Orrick  
United States District Judge